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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 22, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

PETITION OF

CASE NO. PUE-2002-00249

MONTVALE WATER, INC.

For declaratory judgment

ORDER INVITING RESPONSE

On May 2, 2002, Montvale Water, Inc. ("Montvale" or "Company"), filed with the State Corporation Commission ("Commission") a Petition for Declaratory Judgment ("Petition"). In its Petition, Montvale requests that the Commission rule on whether Woodhaven Nursing Home ("Woodhaven") has the right to supply customers, other than its existing nursing home facility, with water, stating that such customers are located within the certificated franchise territory of Montvale.

The Petition states that after Montvale and Woodhaven failed to come to an agreement regarding a proposed waterline extension to connect Woodhaven to the Montvale water system, Woodhaven contracted to have plans prepared for the construction

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of its own private water supply system on its property. The Petition further states that it is Woodhaven's intention to use the proposed new water system to supply water to the existing nursing home facility and to several new facilities that are yet to be constructed.

In its Petition, Montvale states that under the Utility Facilities Act of Title 56 of the Code of Virginia, specifically, Va. Code § 56-265.1, if Woodhaven serves those intended facilities with its new system, Woodhaven is subject to regulation as a public utility because it will be a company furnishing water to fifty (50) or more customers. Furthermore, the Petition states that pursuant to Va. Code § 56-265.2, no public utility may construct, enlarge, or acquire any facilities for use in public utility service, without having first obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right, and Va. Code § 56-265.3 requires that any public utility furnishing public utility service first obtain a Certificate of Public Convenience and Necessity ("CPCN") authorizing it to furnish such service. The Petition also states that pursuant to Va. Code § 56-265.4, in order for Woodhaven to obtain a CPCN, Woodhaven would have to

prove to the Commission that the service rendered by the current certificate holder, Montvale, is inadequate with regards to the requirements of the public convenience and necessity. In its Petition, Montvale states that its service capabilities are adequate to the requirements of the public convenience and necessity within its certificated franchise territory. The Petition further states that Montvale's franchise means that only Montvale may sell or supply water to users within its service area.

NOW UPON CONSIDERATION of the foregoing, the Commission is of the opinion and finds that this Petition should be docketed; that Woodhaven Nursing Home may be given an opportunity to file a response to Montvale's Petition; and that Montvale should be given an opportunity to file a reply to any such response. Thereafter, the Commission may determine this matter on the pleadings or determine if further proceedings are necessary.

Accordingly, IT IS ORDERED THAT:

(1) This matter is docketed and assigned Case. No. PUE-2002-00249.

(2) Woodhaven Nursing Home may respond to Montvale's Petition by filing with the Clerk of the Commission an original

and fifteen (15) copies of any response on or before June 10, 2002. Any response shall be filed with the Clerk of the Commission, c/o Document Control Center, P.O. Box 2118, Richmond Virginia 23218, and shall refer to case No. PUE-2002-00249, and also shall be served upon counsel for Montvale, Samuel F. Vance IV, Esquire, Glenn, Feldmann, Darby & Goodlatte, 210 1st Street S.W., Suite 200, P.O. Box 2887, Roanoke, Virginia 24001.

(3) On or before June 20, 2002, Montvale may file a reply to any response filed herein.

(4) This matter is continued generally.